

PROCUREMENT POLICY BOARD MEETING

September 4, 2003

2:00 p.m.

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

Members Present

Phyllis Koike, Chair  
Russ Saito, Secretary  
Gordon Ing, member  
Claire Motoda, member  
Myron Tong, member

Members Excused

Gregory King  
Winifred Odo

Others

Aaron Fujioka, State Procurement Office  
Robert Govers, State Procurement Office  
Doris Lee, State Procurement Office  
Ruth Yamaguchi, State Procurement Office  
Justin Fo, State Procurement Office  
Mara Smith, State Procurement Office  
Cheryl Oho, State Procurement Office  
Pat Ohara, Attorney General's Office  
Charles Katsuyoshi, City and County of Honolulu  
Christian Butt, Department of Education  
Clayton Wong, Honolulu City Council  
Keoki Kerr, KITV 4 News  
Bob Campbell, KITV 4 News  
Cliff Higa, Safety Systems  
Eric Tsugawa, Case, Bigelow & Lombardi  
Daniel Chun, American Institute of Architects  
Robert Watada, Campaign Spending Commission

Call to Order

Chair Phyllis Koike called the meeting to order at 2:05 p.m.

## **Minutes**

### Motion

Mr. Myron Tong made a motion; seconded by Ms. Claire Motoda to approve the minutes of the meeting held on June 16, 2003.

The minutes were approved as distributed.

## **New Business**

### **For Action**

Mr. Aaron Fujioka briefed the Board on the letter from Senator Cal Kawamoto and how item no. 2 on §3-122-112 would depend on the outcome of the Board's decision on item no. 1.

After a lengthy discussion, the Board's primary concern was the administrative burden that would be placed on the departments. Chair Koike specified the options to: 1) leaving the rule at the \$25,000 amount; 2) change the dollar amount; or 3) not having any dollar amount limit. In addition, the Board requested a language change allowing for contractor self-certification and suggested a meeting with Senator Kawamoto to discuss implementing Section 6 in Act 52. Chair Koike, Mr. Saito and Mr. Fujioka to attend. Mr. Fujioka will arrange date and time.

Mr. Myron Tong made a motion to adopt with amendments agreed upon by the Board and Mr. Gordon Ing seconded. §3-122-112 was adopted as an interim rule with amendments that contractors of contracts of \$25,000 or more would be required to offer documentation to evidence compliance with any of the applicable sections of the Hawaii Revised Statutes referred to in the rule, and that such documentation would be required upon award and not prior to award, and other amendments clarifying the tax clearance certificate requirement.

Mr. Aaron Fujioka withdrew item no. 3. The SPO is waiting for information from the Department of Labor and Industrial Relations (DLIR) to complete the procurement directive.

For item No. 4 Mr. Fujioka explained that we are proposing to specifically list campaign violations as an offense for suspension and debarment. Before proceeding with discussion, he brought to the Board's attention Agenda Item No. 5 – Implementation Guidance on the intended effective date of this rule. Mr. Fujioka stated that the rule on debarment and suspension applies to those persons who commit a campaign violation after the date the rule is adopted. Prior violations would be processed utilizing the Chapter 103D-702, HRS and the current Hawaii Administrative Rules. He also submitted to the Board a copy of a letter faxed to the SPO from the General Contractor's Association, voicing their concerns. Mr. Robert Watada, from the Campaign Spending Commission gave an overview to the Board on basically how fines are determined and to answer any questions they had.

During the discussion on debarment, Mr. Daniel Chun, Government Affairs Chairman of the American Institute of Architects joined the meeting and addressed the Board.

The Board had a lengthy discussion and exchange of ideas with questions and input from Mr. Watada. Mr. Russ Saito moved to adopt the interim rule with the language changes and Mr. Myron Tong seconded. Chair Koike called for a vote. Vote was 2 in favor and 3 against. Motion was not carried.

The majority of the Board felt more time is needed to modify the language for the interim rule and since the law already has a process in place for debarment, there is no urgency to approve this rule. Mr. Russ Saito made a motion to modify the language and place the interim rule on the next meeting's agenda and Mr. Myron Tong seconded. The motion was passed.

With the postponement of the interim rule, item no. 5 was also deferred.

Mr. Justin Fo explained that item no. 6, Chapter 3-124, were rules previously adopted as interim rules by the Board. The historical notes have been added and they will be going forward with the public hearing process via video conferencing. Ms. Claire Motoda made a motion to approve Chapter 3-124 and Mr. Myron Tong seconded. The motion was passed.

Ms. Ruth Yamaguchi explained that item no. 6, Chapter 3-126, are rules also previously adopted as interim rules by the Board with minor changes made and historical notes added. Included in the rules is the new section 11.01 on debarment and suspension. Mr. Gordon Ing made a motion to approve Chapter 3-126 without section 3-126-11.01 and Mr. Myron Tong seconded. The motion was passed.

#### For Information

Ms. Doris Lee presented Chapter 3-122, subchapters 4, 5 and 6. Ms. Lee explained a majority of the sections in subchapters 5 and 6 that had similar provisions were repealed and added to subchapter 4. Also a new subchapter 6.5 was created to address the multi-step competitive sealed bidding process.

One of the substantive change in subchapter 4 is section 16.05, requiring agencies to announce any pre-bid or pre-bid proposal conference in the public notice and requiring the summary of the conference to be issued by addendum. If a mandatory attendance is a prerequisite to making an offer, the agency is being required to state it in the public notice and in the solicitation. If the decision is made for a mandatory conference after the public notice and solicitation is issued it has to be stated in an addendum.

Subchapter 4, section 16.06, requires the agencies to issue clarifications by addendum and deletes the rule allowing clarifications to be issued anytime up to the bid opening date.

A new section was added to subchapter 6, section 45.01 entitled "Evaluation Committee" which includes parts of various sections and adds new requirements applicable to private consultants, including signing an affidavit, not disclosing any information on the evaluation

process, and agreeing that their names will become public information upon award of the contract.

Subchapter 6 also requires a numerical rating system for RFP's, changes to the RFP to be issued by addendum to only priority-listed offerors, awards to be issued in writing, and clarifies posting requirements for award of contract.

A new subchapter 6.5 was drafted for multi-step competitive sealed bidding, and mirrors the RFP process and the IFB process.

### **Administrator's Report**

Mr. Aaron Fujioka reported that we are making progress on the e-procurement initiative. Best and final offers were received and the evaluation committee will be meeting and sorting through this information.

Update on the purchasing card, the Honolulu Board of Water Supply has issued 47 cards, County of Maui – 69, County of Hawaii – 49, Executive Branch – 12, including 2 for the Governor's Office. Department of Education, Judiciary, Hawaii Health Care System Corporation and Hawaii State Public Library System have confirmed their intention to participate.

### **Next Meeting**

The next meeting to be scheduled on either September 24<sup>th</sup> or 26<sup>th</sup>.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,

9/13/03  
Date

Russ K. Saito  
RUSS K. SAITO, Secretary  
Procurement Policy Board